Supreme Court, U. S.
FILED
NOV 29 1973
MICHAEL RODAK, JR., CLERK

APPENDIX

Supreme Court of the United States

OCTOBER TERM 1973

No. 73-191

The VILLAGE OF BELLE TERRE, an incorporated municipality, JAMES PHILBIN, Mayor of the Village of Belle Terre, ROBERT DOERR, Deputy Mayor and Trustee of the Village of Belle Terre, VINCENT BOVE, Trustee of the Village of Belle Terre, VINCENT KARWOWSKI, Trustee of the Village of Belle Terre, and FRANCIS STOLZ, Trustee of the Village of Belle Terre,

Defendants-Appellants,

—against—

BRUCE BORAAS, ANNE PARISH, MICHAEL TRUMAN, EDWIN DICKMAN and JUDITH DICKMAN,

Plaintiffs-Appellees.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

APPEAL DOCKETED JULY 27, 1973
PROBABLE JURISDICTION NOTED OCTOBER 15, 1973

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Omissions from Appendix

The following items are omitted from this Appendix because they are printed in the jurisdictional statement as follows:

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Opinion of the Court of Appeals for the Second Circuit on the merits	J.S. 1a
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Opinion of the District Court for the Eastern District of New York	J.S. 51a
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Notice of Appeal to the Supreme Court of the United States	J.S. 86a

Docket Entries

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

DATE	FILINGS—PROCEEDINGS
8-2-72	Complaint filed. Summons issued.
8-2-72	Order permitting personal service of summons and complaint filed.
8-3-72	Order to show cause and memorandum filed, for a preliminary injunction etc. (ret Aug 1, 1972)
8-3-72	Supplement to pltffs' memorandum filed in support of issuance of temporary restraining order.
8-4-72	Summons returned and filed with aff'd of srv. executed.
8-10-72	Undertaking on injunction ($250.00) filed.
8-16-72	Letter dtd. 8/12/72 to J. Dooling from Evelyn Boyce filed.
8-16-72	Letter dtd. 8/12/72 to Evelyn Boyce from J. Dooling, filed.
8-18-72	Answer filed with annexed affidavits of James J. Oiste and Harriet Coorssen.
8-18-72	Memorandum in opposition to issuance of preliminary injunction filed, by defts.
8-31-72	Before Dooling, J.—Case called—Hearing held & concluded—t.r.o. cont'd.

Docket Entries

DATE	FILINGS—PROCEEDINGS
9-8-72	Copy of pltffs' memorandum filed, in support of issuance of a preliminary injunction.
9-11-72	By Dooling, J.—Order dtd 9/8/72 continuing t.r.o. filed.
9-21-72	By Dooling, J.—Memorandum & Order incorporating findings of fact dtd 9-20-72 filed. It is ordered that the motion for a preliminary injunction is denied; the temporary restraining order is continued for five days after the entry of the present order to enable pltffs to apply to the Court of Appeals for an injunction pending appeal under Rule 8(a) (P/C mailed to attys).
9-26-72	—Pltff's memo of law filed.
9-26-72	Notice of Appeal Filed. Copy of appeal mailed to C/A and to Von Oiste and Cartes, Esqs. Port Jefferson, N.Y. 11777.
10-12-72	Record on appeal certified and given to Susan Herman for delivery to Court of Appeals. Receipt in file.
3-26-73	Before Dooling, J.—Case called for conf.—Held & concluded.
3-28-73	By Dooling, J.—Order to show cause ret 3-29-73 without proof of service dtd 3-27-73 filed.

Docket Entries

DATE	FILINGS—PROCEEDINGS
3-29-73	Before Dooling, J.—Case called. Permanent injunction, declaratory judgment granted.
4-13-73	Notice of appeal filed. Duplicate mailed to C of A.
5-18-73	Certified copy of judgment & copy of opinion received from C of A reversing order of this court & filed. jn.
5-24-73	Certified copy of judgment received from C of A affirming injunction entered 3-29-73 filed.

Docket Entries

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Case No. 73-1607

BRUCE BORAAS, et al.

v.

VILLAGE OF BELLE TERRE, et al.

DATE	FILINGS—PROCEEDINGS
4-13-73	Filed motion for a preference and for leave to dispense with filing a brief & appendix, etc. with proof of service.
4-16-73	Filed cross-motion for summary affirmance or alternatively that this appeal be referred to the panel which heard the initial appeal with p/s.
4-18-73	Filed copies of docket entries and notice of appeal.
4-19-73	Filed order referring motion for a preference and for leave to dispense with filing a brief & joint appendix to panel hearing appellees' summary affirmance motion on 5-1-73.
4-25-73	Received docket fee
5-1-73	Filed order granting motion for summary affirmance (O.A.)
5-17-73	Filed notice of appeal to the Supreme Court (Village of Belle Terre and individual defendants) p/s
5-18-73	Issued certified copy notice of appeal to the Supreme Court.

Docket Entries

DATE	FILINGS—PROCEEDINGS
5-23-73	Issued certified copy of order of 5-1-73 for summary affirmance.
6-1-73	Filed receipt by Supreme Court of notice of appeal.
8-1-73	Filed notice of filing of petition for writ of certiorari (S.C. #73-191).
10-24-73	Filed certified copy of order of Supreme Court—statement of jurisdiction having been submitted and considered by the court, probable jurisdiction is noted.

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

BRUCE BORAAS, ANNE PARISH, MICHAEL TRUMAN, EDWIN DICKMAN and JUDITH DICKMAN,

Plaintiffs,

—against—

The VILLAGE OF BELLE TERRE, an incorporated municipality, JAMES PHILBIN, Mayor of the Village of Belle Terre, ROBERT DOERR, Deputy Mayor and Trustee of the Village of Belle Terre, VINCENT BOVE, Trustee of the Village of Belle Terre, VINCENT KARWOWSKI, Trustee of the Village of Belle Terre, and FRANCIS STOLZ, Trustee of the Village of Belle Terre,

Defendants.

BRUCE J. ENNIS
LAWRENCE G. SAGER
ARTHUR N. EISENBERG
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(212) 924-7800

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

I. JURISDICTION

1. The jurisdiction of this Court is invoked under Title 28 United States Code, Sections 1331(a), 1343 and 2201, *et seq.*, this suit being authorized by Title 42 United States Code, Section 1983. This is an action for a declaratory judgment and appropriate equitable relief to prevent further deprivation under color of state law, statute, or ordinance, of rights, privileges and immunities secured to plaintiffs by the Constitution and Statutes of the United States, including the right to equal protection and due process of law under the Fourteenth Amendment to the Constitution of the United States and under Title 42, United States Code, Section 1983.

II. PARTIES PLAINTIFF

2. BRUCE BORAAS is 24 years old. He is entering his third year of graduate study at the State University of New York at Stony Brook. He is working towards a doctorate in sociology, and holds a research assistantship at the University. As more fully set out below, he resides with five other Stony Brook students in a single family residence within the incorporated Village of Belle Terre, New York, and commutes from that residence to the University.

3. ANNE PARISH is 23 years old. She is enrolled as a third year undergraduate student at the State University of New York at Stony Brook, for the academic year which commences in September of 1972. As more fully set out below, she resides with five other Stony Brook students in a single family residence within the incorporated Village

of Belle Terre, New York, and intends to commute from that residence to the University.

4. MICHAEL TRUMAN is 25 years old. He is entering his fourth year of graduate study at the State University of New York at Stony Brook. He is working toward a doctorate in sociology, and holds a teaching assistantship at the University. As more fully set out below, he resides with five other Stony Brook students in a single family residence within the incorporated Village of Belle Terre, New York, and commutes from that residence to the University.

5. EDWIN DICKMAN and JUDITH DICKMAN are husband and wife. As more fully set out below, they are the owners and lessors of a single family residence within the incorporated Village of Belle Terre, New York, which premises [hereafter referred to as the Dickman house] are presently occupied by six individuals who are unrelated by blood, adoption, or marriage.

III. PARTIES DEFENDANT

6. The VILLAGE OF BELLE TERRE is a municipality, duly incorporated under the laws of the State of New York, and situated in the County of Suffolk. As more fully set out below, the Building Zone Ordinance of the Village of Belle Terre proscribes the occupancy of any residence within the Village by more than two persons not related by blood, adoption or marriage.

7. JAMES PHILBIN is Mayor of the Village of Belle Terre. He is sued here in said official capacity.

8. ROBERT DOERR is Deputy Mayor and Trustee of the Village of Belle Terre. He is sued here in said official capacity.

9. VINCENT BOVE is Trustee of the Village of Belle Terre. He is sued here in said official capacity.

10. VINCENT KARWOWSKI is Trustee of the Village of Belle Terre. He is sued here in said official capacity.

11. FRANCIS STOLZ is Trustee of the Village of Belle Terre. He is sued here in said official capacity.

IV. INCIDENTS AT ISSUE

12. On or about December 1, 1971, plaintiff Michael Truman signed a written lease concerning a detached, residential house located at the intersection of Harbor View Road and Cliff Road, in the incorporated Village of Belle Terre, Suffolk County, New York, referred to herein as the Dickman house. Those premises were at that time and still are owned by Edwin and Judith Dickman, husband and wife. The lease, signed by Michael Truman as lessee and the Dickmans as lessors, let the premises for a term of 18 months, commencing on December 1, 1971, and terminating on May 31, 1973. The stipulated rent was $500.00 per month, and a security deposit of $1,000.00 was required.

13. Since the execution of the lease referred to in paragraph 12 of this complaint, Michael Truman has resided in the Dickman house. It is his intention and desire to remain in the Dickman house until the termination of the lease in May of 1973, during which period he will continue

his graduate studies at the State University of New York at Stony Brook.

14. On or about June 1, 1972, plaintiff Bruce Boraas signed a copy of the lease to the Dickman house, identical in all respects to that executed by Michael Truman, as per paragraph 12 of this complaint, except for the addition of Boraas as a lessee. At that time Boraas assumed residence in the Dickman house and has since continued to reside there. It is his intention and desire to remain in the Dickman house until the termination of the lease in May of 1973, during which period he will continue his graduate studies at the State University of New York at Stony Brook.

15. On or about June 1, 1972, plaintiff Anne Parish assumed residence in the Dickman house. She did not sign a lease. However, Mr. and Mrs. Dickman, the lessors, are aware that she presently resides in the Dickman house and accepted a check for the $500.00 rent for the Month of July, 1972, which bore her name and signature. It is her intention and desire to remain in the Dickman house until the termination of the lease in May of 1973, during which period she will pursue studies as an undergraduate student at the State University of New York at Stony Brook.

16. In addition to plaintiffs Boraas, Parish, and Truman, three other Stony Brook students are presently resident in the Dickman house. Franklin Beckman is a graduate student in sociology in the fifth year of a doctorate program who holds a teaching assistantship at Stony Brook. It is his intention and desire to remain in the Dickman house until the termination of the lease in May

of 1973. Michael Miranda is a graduate student in sociology at Stony Brook. He is uncertain as to whether he will remain in the Dickman house. Leonard Cassara is an undergraduate student at Stony Brook. He intends to leave the Dickman hosue on or before September 1, 1972.

17. It is the desire and intention of plaintiff's Boraas, Parish and Truman to secure additional co-residents to replace Leonard Cassara and Michael Miranda, if the latter decides to leave the premises. The number of persons residing in the Dickman house will thus be maintained at six. It is the desire and intention of the plaintiffs to secure fellow Stony Brook students as such additional co-residents.

18. The Dickman house has six bedrooms, and each of the residents has his own bedroom. The rent and security deposit is apportioned among the six upon the basis of their mutual judgment as to the quality of the bedroom which they occupy. Plaintiff Boraas contributes $85 per month and has paid $170 towards the deposit. Plaintiff Parish contributes $90 per month and has paid $180 towards the deposit. Plaintiff Truman contributes $95 per month and has paid $190 towards the deposit.

19. The six tenants of the Dickman house, of which the plaintiffs are three, are organized and function as a single housekeeping unit. More particularly.

A. Dinner is a common meal; the chores of cooking this meal, washing dishes, and so forth, are distributed on a scheduled basis among the six tenants;

B. Chores connected with the general housekeeping and cleaning functions within the house are likewise distributed equally as per schedule;

C. Every two weeks, there is a scheduled "yard day" during which each tenant is expected to participate in common yard keeping functions such as lawn mowing; and

D. Plaintiff Anne Parish is the household "treasurer." In this capacity, she collects joint contributions for the common shared expenses of groceries, telephone service, newspaper delivery, basic utilities, fuel oil, and milk delivery. A house checking account has been established from which these disbursements and a joint rent check are drawn.

20. Each of the plaintiffs, prior to assuming residence in the Dickman house, undertook an extensive search for rental opportunities within the vicinity of Stony Brook. Each found that, except for university dormitory accommodations, the only rental situations which they could possibly afford were shared residences like the Dickman house. Traditional apartment rentals, when available, were beyond their means. In addition, each of the plaintiffs has determined that a cooperative housing arrangement with other students with common academic interests —like that which has evolved in the Dickman house—is an attractive, congenial and convenient residential life style, and one which affords a useful forum for scholarly exchange.

21. None of the six present residents of the Dickman house is related to any of the other residents by blood, adoption or marriage.

22. The Village of Belle Terre has a residents-only beach, access to which requires a resident permit. Defendant Stolz, dispenses such permits to residents on behalf of the Village.

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

23. On June 8, 1972, Plaintiffs Boraas and Truman visited Defendant Francis R. Stolz at his residence in the Village of Belle Terre. They requested beach permits for themselves and their co-tenants. Stolz declined to issue such permits. His explanation was that the residents of the Dickman house were "illegal residents" of the Village, and as such, were not entitled to beach permits. Further, Defendant Stolz informed Plaintiffs Boraas and Truman that "papers are being prepared against you and Mrs. Dickman by the Village."

24. On or about June 13, 1972, Plaintiffs Boraas and Parish attended a meeting of the Village of Belle Terre Board of Trustees. When questions from the floor were invited, Plaintiff Boraas rose and sought to inquire as to the official Village position on all matters alluded to by Defendant Stolz on June 8 (see paragraph 23, above). Defendant Stolz responded to this inquiry with a statement to the effect that a violation of the Village zoning ordinance was being perpetuated in the Dickman house because it was not being occupied by a single family and further, that the Village intended to institute legal proceedings to terminate this violation.

25. The Building Zone Ordinance of the Village of Belle Terre includes the following provisions, which, in effect, prescribe the following provisions, which, in effect, proscribe the occupancy of any residence within the Village by more than two persons not related by blood, adoption or marriage:

"ARTICLE I DEFINITIONS

"D-1.34a. One Family Dwelling. A detached house consisting of or intended to be occupied as

a residence by one family only as family is hereafter defined. In no case shall a lodging house, boarding house, fraternity house, sorority house or multiple dwelling be classified or construed as a one family.

"D-1.35a. Family. One or more persons related by blood, adoption or marriage, living and cooking together as a single house keeping unit, exclusive of household servants. A number of persons but not exceeding two (2) living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family.

* * *

"ARTICLE II DISTRICTS

"Section DT-1.0. For the purpose of this Ordiance the Village of Belle Terre will consist of one (1) district to be known as 'A' Residence District.

"DT-1.1 The boundary of said district is hereby established as identical to the Village boundaries.

"DT-1.2 No building shall be erected, altered, or used and no premises shall be used for any other than a purpose permitted in this "A" residential zone.

"ARTICLE III "A" RESIDENCE DISTRICT

"Section A-1.0. "A" Residence District to building or premise shall be used and no building shall hereafter be erected or altered unless provided in this Ordinance except for one (1) or more of the following uses:

(1) One family dwellings.

(2) Public parks, playgrounds, recreational areas, and real property and structures owned and operated by the municipality and for municipal purposes of the Village of Belle Terre.

(3) Accessory buildings, including one (1) private garage when located on the same lot and when meeting requirements of Article III, Section A-1.4a; A-1.4b; and A-1.4c and when such buildings are incidental to the principal use of the dwelling and do not include any activity commonly conducted as a business. The private garage may be within or attached to the dwelling."

26. On July 19, 1972, Edwin and Judith Dickman, lessors of the Dickman house, were served with a document entitled "Criminal Summons," a copy of which is attached hereto as an exhibit. That Summons commanded the Dickmans to appear before Hon. John Leach, the Belle Terre Village Justice, at 7:00 P.M. on July 28, 1972. The Summons stated that it was issued upon the complaint of Harriet Coorssen that the Dickmans "cease rent and/or otherwise permit . . . [their] premises located at Cliff Road, Belle Terre, Suffolk County, New York to be used other than as a one family dwelling." The named complainant, Harriet Coorssen, is Clerk and Treasurer of the Village of Belle Terre.

27. On July 28, 1972, the scheduled date of the criminal hearing to which the July 19, 1972 Summons referred, the Village Counsel, James V. von Oiste, informed the Dickmans' attorney, Allen Wolfsont, Esq., that the Summons was being withdrawn. It was so withdrawn, and no criminal prosecution is presently pending.

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

28. Upon information and belief, the July 19, 1972 Summons served upon the Dickmans was withdrawn because of a discovered defect in the Village's procedure, to wit, its failure to comply with the requirements of Article IV, Section P-1.13a of the Village Building Zone Ordinance, which provides that "A person . . . who fails to comply with any order of the Building Inspector within 48 hours following the receipt of said order shall be deemed to have violated this Ordinance." Prior to their receipt of the July 19, 1972 criminal summons, the Dickmans had received no order or notice of any kind from the Village pertaining to their alleged violation of the ordinance because of the occupancy of the Dickman house by plaintiffs Boraas, Parish and Truman and the other Stony Brook students.

29. Upon information and belief, the Village of Belle Terre, through the defendants in their official capacities, intends to reinstitute criminal proceedings against the plaintiffs Edwin and Judith Dickman, charging a violation of the Village Building Zone Ordinance based upon the occupancy of the Dickman house by plaintiffs Boraas, Parish and Truman and their three additional co-residents.

30. On July 31, 1972, the Dickmans were served, by registered mail, an "order" or "notice of violation" issued by the Village Building Inspector, Abe Seifert. This document, which is appended hereto as an exhibit, indicates that on August 3, 1972—48 hours after the service of the order —if the Dickman premises are not in conformity with the single family occupancy provision of the Building Zone Ordinance, the Dickmans will be exposed to criminal fines and/or imprisonment.

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

31. The Building Zone Ordinance of the Village of Belle Terre, Article VIII, § M-1.4a(2), provides that each violation of its provisions shall constitute "disorderly conduct." Further, said section provides that the owner and lessee or tenant of a building where a violation occurs "shall be a disorderly person and shall be liable for and pay a penalty not exceeding One Hundred Dollars ($100.00) or by imprisonment for a period not exceeding 60 days or by both such fine and imprisonment. A separate and distinct offense shall be deemed committed on each day during or on which a violation occurs or continues."

32. Upon information and belief, if the defendants do not succeed in terminating the residence in the Dickman house of plaintiffs Boraas, Parish and Truman and their three co-residents through the criminal prosecution of the plaintiffs Dickman, they will resort to other means designed to accomplish that end, including criminal prosecution of Boraas, Parish and Truman and civil actions against some or all of the plaintiffs.

33. Plaintiffs Boraas, Parish and Truman desire to use the Village of Belle Terre beach. Such use is a normal incident of residence in the Village, and is secured by Village Ordinance No. 19. Without a beach permit, any use of the beach is prohibited by Ordinance 19, and each occasion of unlawful use is subject to a fine of $20.00 and constitutes a criminal violation.

34. The Building Zone Ordinance of the Village of Belle Terre, insofar as it proscribes residential occupancy by more than two persons not related by blood, adoption or marriage, deprives the plaintiffs of rights secured to them

by the Constitution of the United States, and more particularly:

A. The ordinance denies the plaintiffs equal protection of the laws;

B. The ordinance violates the right of association secured to the plaintiffs by the First and Fourteenth Amendments;

C. The ordinance intrudes upon the sphere of privacy secured to the plaintiffs by diverse provisions of the Constitution; and

D. The ordinance contravenes the right to travel likewise secured to the plaintiffs.

35. Unless the Court awards the plaintiffs the relief prayed for below, they will suffer immediate and irreparable injury. More particularly:

A. Plaintiffs Edwin and Judith Dickman will be liable to substantial criminal penalties, which are cumulative for each day after August 3, 1972 during which the single family occupancy provisions of the Building Zone Ordinance are violated.

B. Plaintiffs Boraas, Parish and Truman are likewise liable to such criminal penalties. Further they are exposed to the very substantial risk that the Dickmans, if they are unable to secure the relief prayed for herein, will be forced to undertake to remove them in order to avoid the cumulative criminal liability. Finally, plaintiffs Boraas, Parish and Truman are presently being denied access to the Village of Belle Terre Beach, which access is by Village law made an incident of residence in the Village.

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

IV. Prayer for Relief

WHEREFORE, plaintiffs pray for the following relief:

1. A temporary restraining order, restraining the defendants and anyone acting in concert with them, from instituting criminal or civil proceedings against any of the plaintiffs to enforce the provisions of the Building Zone Ordinance of the Village of Belle Terre, insofar as it proscribes residential occupancy by more than two persons not related by blood, adoption or marriage, and from taking any other steps intended to have or having the effect of enforcing said provisions, including the withholding of any of the normal rights and privileges of residence within the Village, such as beach privileges.

2. A preliminary and a permanent injunction each enjoining the defendants, their successors in office, and anyone acting in concert with them, from instituting criminal or civil proceedings against any of the plaintiffs to enforce the provisions of the Building Zone Ordinance of the Village of Belle Terre, insofar as it proscribes residential occupancy by more than two persons not related by blood, adoption or marriage, and from taking any other steps intended to or having the effect of enforcing said provisions, including the withholding of any of the normal rights and privileges of residence within the Village, such as beach privileges.

3. A judgment declaring the Building Zone Ordinance of the Village of Belle Terre unconstitutional, insofar as it proscribes residential occupancy by more than two persons not related by blood, adoption or marriage.

4. Such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ BRUCE J. ENNIS
Bruce J. Ennis

/s/ LAWRENCE G. SAGER
Lawrence G. Sager

/s/ ARTHUR N. EISENBERG
Arthur N. Eisenberg

New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(212) 924-7800

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

EXHIBIT ANNEXED TO COMPLAINT

Police Justice Court.

STATE OF NEW YORK,
COUNTY OF SUFFOLK } ss.:
VILLAGE OF BELLE TERRE

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

To:

EDWIN DICKMAN and JUDITH DICKMAN.

COMPLAINT having been made this day by HARRIET COORSSEN that you lease, rent and/or otherwise permit your premises located at Cliff Road, Belle Terre, Suffolk County, New York to be used other than as a one-family dwelling.

YOU ARE HEREBY SUMMONED to appear before me, Honorable John Leach, at Community Center, Cliff Road, in the Village of Belle Terre, N. Y., on the 28th day of July, 1972 at 7:00 o'clock P.M., to the end that an investigation may be made of said complaint: and upon your failure to appear at the time and place mentioned, you are liable to a fine of not exceeding ONE-HUNDRED DOLLARS for each day during or on which the violation occurs or continues or by imprisonment for a period not exceeding 60 days or by both fine and imprisonment.

Dated at the Village of Belle Terre
N. Y., the 18th day of July, 1972

JOHN M. LEACH
Village Justice

Complaint and Exhibits (Criminal Summons and Order to Remedy Violations)

EXHIBIT ANNEXED TO COMPLAINT

INCORPORATED VILLAGE OF BELLE TERRE
COMMUNITY CENTER
CLIFF ROAD
BELLE TERRE, NEW YORK 11777

ORDER TO REMEDY VIOLATION

Location (address)—Northwest corner of Cliff Road and Harbor View Drive, Belle Terre, New York 11777

Date: July 28, 1972

To:

Edwin Dickman & Judith Dickman
(owner or authorized agent of owner)
85 Nesconset Highway, Port Jefferson Station,
N. Y. 11776
(address of owner or authorized agent of owner)

PLEASE TAKE NOTICE there exists a violation of Article III, Section 9-1.O. of the Village Code at premises hereinafter described in that premises used other than as a one family dwelling.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the conditions above mentioned forwith on or before the 3rd day of August, 1972.

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

/s/ ABE SEIFERT
Abe Seifert

Affidavit of Lawrence G. Sager in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

LAWRENCE G. SAGER, being duly sworn, deposes and says:

1. I am an attorney for the plaintiffs in the above-styled cause. I make this affidavit in support of plaintiffs' claim that immediate and irreparable injury will befall plaintiffs if the temporary restraining order and preliminary injunction prayed for in this cause are not granted.

2. On July 27, 1972 and July 28, 1972, I had several telephone conversations with James V. von Oiste, Counsel for the Village of Belle Terre. These conversations were initiated by me, and were for the purposes of exploring the Village's intentions regarding the matters in this cause and of informing Mr. von Oiste of the plaintiffs'—at the time of the calls in question I represented only Boraas, Parish and Truman—intention to proceed in federal Court.

3. In the course of our conversations, Mr. von Oiste acknowledged that there was possibly a procedural defect in the then pending criminal prosecution of the Dickmans, to wit, that the Village had failed to serve the Dickmans with an Order of the Village Building Inspector prior to commencing the action. Article IV, Section P-1.13a of

the Building Zone Ordinance makes a personal violation of the ordinance contingent upon a 48 hours notice by means of an order of the Village Building Inspector.

4. In the course of our conversations Mr. von Oiste indicated that he intended to do three things. First, he intended to withdraw the criminal summons of July 19, 1972 immediately. Second, he intended to serve the Dickmans with an order executed by the Village Building Inspector. And third, he intended to reinstitute criminal proceedings against the Dickmans.

5. To the best of my knowledge, supported by my telephone conversations with Mr. von Oiste, Allen Wolfsont, Esq. (the Dickmans' attorney in the local proceeding) and the Hon. John Leach (the Village Justice), the criminal summons was withdrawn during the afternoon of July 28, 1972.

6. On July 31, 1972, the Dickmans were served with an "Order to Remedy Violation", executed by Abe Seifert, Village Building Inspector, and sent by certified mail in an envelope bearing the return address of Mr. von Oiste's law offices. Copies of said order are attached to the Complaint herein, and to the affidavit of Judith Dickman.

7. It is clear that criminal prosecution of the Dickmans is imminent. The Village will charge that the Dickmans' criminal liability runs from a point 48 hours after the service of the "Order to Remedy Violation," viz., August 3, 1972. These are the precise terms of the Order itself. By the terms of the Building Zone Ordinance, each day during which a violation exists constitutes a "separate and distinct offense" of disorderly conduct, and each day sub-

jects the Dickmans to a separate and distinct liability of $100.00 or 60 days in jail.

8. Unless this Court intervenes now, the pressure upon the Dickmans to undertake to remove the students from their Belle Terre house will be very great. With the potential penalties mounting daily, the Dickmans, as Judith Dickman's affidavit indicates, will be unable to risk maintaining the students as tenants with the hope of eventual vindication through the States criminal process.

9. If the plaintiffs Boraas, Parish and Truman are required to leave the Dickman house, or indeed, if they are threatened seriously with the prospects of eviction, they will be forced to seek new housing situations. With the "illegal" use of the Dickman house abated, and the student plaintiffs relocated in another municipality, the compelling constitutional claims of the plaintiffs will be mooted, and the constitutional injuries which they assert beyond any possible redress.

10. In the meantime, plaintiffs Borass, Parish and Truman are being denied access to the Village beach, which access is made by Village Ordinance a perogative of all residents in the Village. This injury, which surely less grave than complete exclusion from the home and community of their choosing, is nonetheless a real injury which is entitled to protection against unconstitutional deprivation. This loss too, can never be compensated; only immediate judicial intervention can prevent its continued occurrence.

LAWRENCE G. SAGER

(JURAT OMITTED IN PRINTING)

Affidavit of Arthur N. Eisenberg in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

ARTHUR N. EISENBERG, being duly sworn, deposes and says:

1. I am an attorney for the plaintiffs in the above-styled cause. I make this affidavit in support of plaintiffs' claim that they will suffer immediate and irreparable injury unless they are permitted to proceed by order to show cause in this action.

2. As noted in the affidavit of Lawrence G. Sager, it is clear that the criminal prosecution of plaintiffs Edwin and Judith Dickman is imminent. The Village officials have clearly taken the position that the Dickmans are violating the Belle Terre zoning ordinance. Accordingly, the defendants undoubtedly assert that the Dickmans' criminal liability runs from a point 48 hours after the service of an "Order to Remedy Violation" executed by Abe Seifert, Village Building Inspector, received by the Dickmans on July 31, 1972. By the terms of the Building Zone Ordinance, each day during which a violation exists constitutes a "separate and distinct offense" of disorderly conduct, and

each day subjects the Dickmans to a separate and distinct liability of $100.00 or 60 days in jail.

3. Unless this action proceeds as expeditiously as possible, the pressure upon the Dickmans to undertake to remove the students from their Belle Terre house will be very great. With the potential penalties mounting daily, the Dickmans, as Judith Dickman's affidavit indicates, will be unable to risk maintaining the students as tenants with the hope of eventual vindication through the state criminal process.

4. If the plaintiffs Boraas, Parish and Truman are required to leave the Dickman house, or indeed, if they are threatened seriously with the prospects of eviction, they will be forced to seek new housing situations. Morever, as the affidavits of plaintiffs Boraas, Parish and Truman indicate, such plaintiffs have been threatened with legal action for their alleged violation of the zoning ordinance of the Village of Belle Terre.

5. Upon the foregoing facts, plaintiffs wish to proceed herein as expenditiously as possible and are consequently seeking preliminary equitable relief by order to show cause rather than notice of motion.

6. Lawrence G. Sager, co-counsel for plaintiffs herein has been in telephonic communication with the office of James V. von Oiste, counsel for the Village of Belle Terre. On August 1, 1972, Mr. Sager telephoned Mr. von Oiste's office on two occasions for the express purpose of notifying counsel for defendants herein of plaintiffs' intention to seek a temporary restraining order from this court. During

Affidavit of Arthur N. Eisenberg in Support of Plaintiffs' Motion for Preliminary Equitable Relief

Mr. Sager's second telephone communication with Mr. von Oiste's office, on August 1, 1972, Mr. Sager spoke with Mr. Carter who explained that he was Mr. von Oiste's law partner, that Mr. von Oiste was vacationing, and that Mr. Carter was handling Mr. von Oiste's affairs while the latter was away. Mr. Sager announced to Mr. Carter that it was plaintiffs' intention to seek a temporary restraining order from this court on either the afternoon of August 1, 1972 or the morning of August 2, 1972.

7. No identical or similar relief has previously been sought by plaintiffs herein.

.....

ARTHUR N. EISENBERG

(JURAT OMITTED IN PRINTING)

Affidavit of Bruce Boraas in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

BRUCE BORAAS, being duly sworn, deposes and says:

1. I am 24 years old. I am entering my third year of graduate study at the State University of New York at Stony Brook. I am working towards a doctorate in sociology and I hold a research assistantship at the University.

2. On June 1, 1972, I signed a lease for the house owned by Edwin and Judith Dickman at the intersection of Harbor View Road and Cliff Road, in Belle Terre, New York. The copy of the lease which I signed was identical to that signed by Michael Truman earlier, except my name was added as lessee.

3. I presently reside in the Dickman house; it is my intention and desire to remain in the Dickman house until the termination of the lease in May of 1973, during which time I will continue my graduate studies.

4. Five other Stony Brook students reside in the Dickman House. These are: Anne Parish, Michael Truman, Franklin Beckman, Michael Miranda and Leonard Cassara.

Beckman intends to remain in the premise until the termination of the lease; Miranda is uncertain, and Cassara definitely intends to leave. It is the intention of my fellow residents and myself to maintain the number of persons in the Dickman house at six, and to secure fellow Stony Brook students to replace anyone who leaves.

5. The Dickman house has six bedrooms and each resident has his own bedroom. The six residents are organized and function as a single housekeeping unit. More particularly:

A. Dinner is a common meal; the chores of cooking this meal, washing dishes, and so forth, are distributed on a scheduled basis among the six tenants;

B. Chores connected with the general housekeeping and cleaning functions within the house are likewise distributed equally as per schedule;

C. Every two weeks, there is a scheduled "yard day" during which each tenant is expected to participate in common yard keeping functions such as lawn mowing; and

D. Plaintiff Anne Parish is the household "treasurer." In this capacity, she collects joint contributions for the common shared expenses of groceries, telephone service, newspaper delivery, basic utilities, fuel oil, and milk delivery. A house checking account has been established from which these disbursements and a joint rent check are drawn.

6. Prior to assuming residence in the Dickman House, I undertook a search for rental opportunities in the vicinity of Stony Brook (the Dickman house is a 15 minute drive from Stony Brook). I found that, except for University dormitory accommodations, the only rental situations which

I could afford were shared residences like the Dickman house. Apartment rentals, when available were too expensive. Further, I have determined that the Dickman house arrangement affords an attractive, convenient and congenial residential life style—and one which affords a useful forum for scholarly exchange.

7. To the best of my knowledge, none of the six residents of the Dickman house is related to any other by blood, adoption or marriage.

8. On June 8, 1972, with Michael Truman, I visited Francis R. Stolz in his residence in the Village of Belle Terre. We requested beach permits, having been informed that Mr. Stolz was the appropriate Village official. He refused to give us permits, saying that the residents of the Dickman house were "illegal residents" of the Village and that "papers are being prepared against you and Mrs. Dickman by the Village."

9. On or about June 13, 1972, with Anne Parish, I attended a meeting of the Village of Belle Terre Trustees. At an appropriate interval, I rose and inquired about Mr. Stolz's statements on June 8, 1972. Mr. Stolz and other members of the Board of Trustees responded with statements to the effect that a violation of the Village zoning ordinance was taking place in the Dickman house, since it was not being occupied by a single family and further, that the Village intended to institute legal proceedings against this violation.

10. I desire to use the beach of the Village.

11. I am a plaintiff in the above-styled cause.

BRUCE BORAAS

Affidavit of Anne Parish in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

ANNE PARISH, being duly sworn, deposes and says:

1. I am a plaintiff in the above-styled cause.

2. I am 23 years old. I am enrolled as a third year undergraduate student at the State University of New York at Stony Brook for the academic year which commences in September of 1972.

3. I presently reside in the house owned by Edwin and Judith Dickman which is located at the intersection of Harbor View Road and Cliff Road, in the incorporated Village of Belle Terre. I desire and intend to remain in the Dickman house until the termination of the lease in May of 1973, during which period I will pursue my undergraduate studies at Stony Brook.

4. Prior to assuming residence in the Dickman house, I undertook a search for rental opportunities in the vicinity of Stony Brook (the Dickman house is a 15 minute drive from Stony Brook). I found that, except for University dormitory accommodations, the only rental situations which

I could afford were shared residences like the Dickman house. Apartment rentals, when available, were too expensive. Further, I have determined that the Dickman house arrangement affords an attractive, convenient and congenial residential life style—and one which affords a useful forum for scholarly exchange.

5. On or about June 13, 1972, with Bruce Boraas, I attended 1 meeting of the Village of Belle Terre Board of Trustees. In response to an inquiry by Mr. Boraas, defendant Stolz and other members of the Board of Trustees made statements to the effect that a violation of the Village zoning ordinance was taking place in the Dickman house, since it was not being occupied by a single family and further, that the Village intended to institute legal proceedings against this violation.

6. To the best of my knowledge, none of the six residents of the Dickman house is related to any other by blood, adoption or marriage.

7. I desire to use the Village of Belle Terre beach.

ANNE PARISH

(JURAT OMITTED IN PRINTING)

Affidavit of Michael Truman in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

MICHAEL TRUMAN, being duly sworn, deposes and says:

1. I am a plaintiff in the above-styled cause.

2. I am 25 years old. I am entering my fourth year of graduate study at the State University of New York at Stony Brook. I am working towards a doctorate in sociology, and I hold a teaching assistantship at the University.

3. On or about December 1, 1971, I signed a lease for the house owned by Edwin and Judith Dickman at the intersection of Harbor View Road and Cliff Road in Belle Terre, New York. The lease is to terminate on May 31, 1973. The stipulated rent was $500.00 per month, and a security deposit of $1,000.00 was required.

4. I presently reside in the Dickman house: it is my intention and desire to remain in the Dickman house until the termination of the lease in May of 1973, during which time I will continue my graduate studies.

Affidavit of Michael Truman in Support of Plaintiff's Motion for Preliminary Equitable Relief

5. Prior to assuming residence in the Dickman House, I undertook a search for rental opportunities in the vicinity of Stony Brook (the Dickman house is a 15 minute drive from Stony Brook). I found that, except for University dormity accommodations, the only rental situations which I could afford were shared residences like the Dickman house Apartment rentals, when available were too expensive. Further, I have determined that the Dickman house arrangement affords an attractive, convenient and congenial residential life style—and one which affords a useful forum for scholarly exchange.

6. On June 8, with Bruce Boraas, I visited Francis R. Stolz in his residence in the Village of Belle Terre. We requested beach permits, having been informed that Mr. Stolz was the appropriate Village official. He refused to give us permits, saying that the residents of the Dickman house were "illegal residents" of the Village and that "papers are being prepared against you and Mrs. Dickman by the Village."

7. To the best of my knowledge, none of the six residents of the Dickman house is related to any other by blood, adoption or marriage.

8. I desire to use the Village of Belle Terre beach.

MICHAEL TRUMAN

(JURAT OMITTED IN PRINTING)

Affidavit of Judith Dickman in Support of Plaintiffs' Motion for Preliminary Equitable Relief

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

JUDITH DICKMAN, being duly sworn, deposes and says:

1. I am a plaintiff in the above-styled cause.

2. With my husband, I own a house located at the intersection of Harbor View Road and Cliff Road, in the incorporated Village of Belle Terre, Suffolk County.

3. That house is presently being leased. Both Michael Truman and Bruce Boraas are signatories to the written lease. The term expires on May 31, 1973. I am aware that Anne Parish is residing in the premises as well.

4. On July 19, 1972, my husband and I received a document executed by Belle Terre Village Justice John Leach, entitled "Criminal Summons." A copy of that document is appended hereto as an exhibit. My husband and I retained Allen Wolfsont, Esq. to represent me in the matter referred to in the Summons.

5. On July 28, 1972, Mr. Wolfsont advised me that he had spoken to James V. von Oiste, Village Counsel, and that

Mr. von Oiste had assured him that the summons would be withdrawn. Upon Mr. Wolfsont's advice, I did not attend the hearing specified in the July 19, 1972 summons, which was scheduled for July 28, 1972 at 7:00 P.M.

6. Today, on July 31, 1972, my husband and I received, by registered mail, an "Order" signed by Village Building Inspector Abe Seifert (Mr. Seifert is also chairman of the Village Zoning Commission). A copy of that order is attached hereto as an exhibit. By its terms, my husband and I are liable to cumulative fines and/or imprisonment if we do not comply with the single family provisions of the Village Zoning Ordinance by August 3, 1972.

7. My husband and I regard the present residents of our Belle Terre house as desirable tenants who are reliable and who have maintained the premises well. It is in our economic interest to continue to rent to them. Moreover, we are sympathetic to the needs of responsible students at Stony Brook who are unable to find adequate housing at a cost which they can afford.

8. Unless the Court affords us the immediate relief which our counsel in the instant case have requested, we will be exposed to cumulative criminal penalties which will mount on a daily basis. We will thereby be compelled to undertake to remove these tenants. If this happens, we will be injured. they will be injured, and all of us will lose the opportunity to litigate our rights in this matter.

JUDITH DICKMAN

(JURAT OMITTED IN PRINTING)

Summons

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK

Civil Action File No. 72C 1030

BRUCE BORAAS, ANNE PARISH, MICHAEL TRUMAN, EDWIN DICKMAN and JUDITH DICKMAN,

—against—

The VILLAGE OF BELLE TERRE, an incorporated municipality, JAMES PHILBIN, Mayor of the Village of Belle Terre. ROBERT DOERR, Deputy Mayor and Trustee of the Village of Belle Terre, VINCENT BOVE, Trustee of the Village of Belle Terre, VINCENT KARWOWSKI, Trustee of the Village of Belle Terre, and FRANCIS STOLZ, Trustee of the Village of Belle Terre,

To the above named Defendant:

You are hereby summoned and required to serve upon

Bruce J. Ennis
Lawrence G. Sager
Arthur N. Eisenberg

plaintiff's attorneys, whose address

New York Civil Liberties Union
84 Fifth Avenue
New York, N. Y. 10011

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon

you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

LEWIS ORGEL
Clerk of Court

By MILDRED LOZENSKY
Deputy Clerk

Dated: August 2, 1972

[Seal of Court]

Defendants' Answer

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

The Defendants, appearing herein, by their attorney, James J. von Oiste, Village Attorney of the Incorporated Village of Belle Terre, as and for their answer to the complaint of the plaintiffs, respectfully show to this Court and allege:

First: Denies that the jurisdiction of this Court is properly invoked under Title 28, United States Code, Sections 1331a., 1343, and 2201 or is authorized by Title 42, United States Code, Section 1983.

Second: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 2 of the complaint; except admits that Bruce Boraas lives in a residence within the Incorporated Village of Belle Terre.

Third: Denies each and every allegation contained in paragraph 3 of the complaint; except admits that Anne Parish lives in a residence within the Incorporated Village of Belle Terre.

Fourth: Denies each and every allegation contained in paragraph 4 of the complaint; except admits that Michael Truman lives in a residence within the incorporated Village of Belle Terre.

Fifth: Admits the allegations contained in paragraph 5 of the complaint.

Sixth: Admits the allegations contained in paragraph 6 of the complaint.

Seventh: Admits the allegations contained in paragraph 7 of the complaint.

Eighth: Denies each and every allegation contained in paragraph 8 of the complaint.

Ninth: Admits the allegations contained in paragraph 9 of the complaint.

Tenth: Admits the allegations contained in paragraph 10 of the complaint.

Eleventh: Admits the allegations contained in paragraph 11 of the complaint.

Twelfth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 12 of the complaint.

Thirteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 13 of the complaint; except admits that plaintiff Michael Truman resides in the Dickman house.

Fourteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 14 of the complaint; except admits that plaintiff Bruce Boraas resides in the Dickman house.

Defendants' Answer

Fifteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 15 of the complaint; except admits that the plaintiff Parish resides in the Dickman house.

Sixteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 16 of the Complaint; except admits that Franklin Beckman, Michael Miranda and Leonard Cassara reside in the Dickman house.

Seventeenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 17 of the complaint.

Eighteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 13 of the complaint.

Nineteenth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 19 of the complaint.

Twentieth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 20 of the complaint.

Twenty-first: Admits the allegations contained in paragraph 21 of the complaint.

Twenty-second: Admits the allegations contained in paragraph 22 of the complaint.

Twenty-third: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 23 of the complaint.

Twenty-fourth: Admits the allegations contained in paragraph 24 of the complaint.

Twenty-fifth: Admits the allegations contained in paragraph 25 of the complaint.

Twenty-sixth: Admits the allegations contained in paragraph 26 of the complaint.

Twenty-seventh: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 27 of the complaint.

Twenty-eighth: Admits the allegations contained in paragraph 28 of the complaint.

Twenty-ninth: Denies any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 29 of the complaint.

Thirtieth: Admits the allegations contained in paragraph 30 of the complaint.

Thirty-first: Admits the allegations contained in paragraph 31 of the complaint.

Thirty-second: Denies each and every allegation contained in paragraph 32 of the complaint.

Thirty-first: Admits the allegations contained in paragraph 33 of the complaint.

To:

LAWRENCE G. SAGER,
ARTHUR N. EISENBERG,
BRUCE J. ENNIS,
NEW YORK CIVIL LIBERTIES UNION,
84 Fifth Avenue,
New York, N. Y. 10011
(212) 924-7800
Attorneys for Plaintiffs.

Affidavit of James J. von Oiste in Opposition to Plaintiffs' Motion for a Preliminary Injunction

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

JAMES J. von CISTE, being duly sworn, deposes and says:

1. Your dependent is the attorney for the defendants in this proceeding and makes this affidavit in opposition to the plaintiffs' request for a preliminary and permanent injunction and declaratory judgment.

2. The moving affidavits recite a great number of conclusions to the effect that the plaintiffs will sustain immediate and irreparable injury unless a temporary restraining order and a preliminary injunction is granted in this cause. None of these statements are supported by fact. For example the plaintiffs allege that their present living arrangement affords them "an attractive, convenient and congenial life style—and one which affords a useful forum for scholarly exchange." They do not allege that there are no accommodations to be had elsewhere, but simply that they have not found any accommodations where they can maintain the same "life style" which is available to them in the Dickman house. Even if this were conceded, which it is not, the fact that the plaintiffs were not able to continue their present "convenient and congenial residential life style" does not

represent any interference with their constitutional rights and certainly does not entitle them to the drastic relief which they seek in these proceedings.

3. On August 15, 1972 your deponent spoke with Mr. John Ciarelli the associate director of housing for the State University at Stony Brook the school which the plaintiffs attend. Mr. Ciarelli advised your deponent that there are twenty-seven dormitory buildings on campus which can accommodate approximately 6200 students. The accommodations range from single and double rooms to suites which accommodate 4 to 6 students in each suite.

4. Your deponent was advised that there are a considerable number of vacancies available at the university. As a matter of fact the supply of on campus housing facilities so far exceed the demand that two of the buildings will not be opened for the academic year 1972 to 1973.

5. The cost of on campus housing is $650.00 per year per student which is considerably less than the plaintiffs pay the Dickmans.

6. Your deponent does not mean to suggest that the plaintiffs seek on campus housing; however other housing is available to them.

7. Belle Terre has a population of approximately 700 and is an incorporated village within the Town of Brookhaven which has a population of approximately 250,000.

8. The highest zone classification in the Town of Brookhaven is designated "A" Residence District and permits only one-family dwellings.

Affidavit of James J. von Oiste in Opposition to Plaintiffs' Motion for a Preliminary Injunction

9. An unlimited number of unrelated peoples may live together in the "A" Residence District in the Town of Brookhaven.

10. Plaintiffs could live anywhere in the Town of Brookhaven and even its highest zoned district would not interfere with their present life style.

11. If the plaintiffs applied to the local real estate brokers they would discover that there are several houses available in the immediate vicinity of the university where they may live together and not be in violation of an ordinance.

WHEREFORE, your deponent respectfully requests that the court deny the preliminary injunction, and all further relief sought by the plaintiffs.

JAMES J. VON OISTE

(JURAT OMITTED IN PRINTING)

Affidavit of Harriet Coorssen in Opposition to Plaintiffs' Motion for a Preliminary Injunction

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

(TITLE OMITTED IN PRINTING)

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

HARRIET COORSSEN, being duly sworn, deposes and says:

1. I am the Village Clerk and Treasurer of the Incorporated Village of Belle Terre.

2. Belle Terre is a Fourth Class Village as defined in the Village Law, State of New York.

3. The total land area of the Village of Belle Terre is approximately one (1) square mile.

4. The total population of Belle Terre is approximately 700.

5. There are 220 homes within the Village, all of which are one-family dwellings. Two houses directly opposite the Dickman house had previously been rented. The house directly opposite the Dickman's to the south is a four bedroom house. I spoke with the owner and was advised that it rents for $350.00 per month completely furnished. The house directly opposite the Dickman's to the southwest is a six bedroom house. I spoke with the former tenant who

had leased the house until one month ago and was advised that the rent paid was $350.00 per month and the house was completely furnished.

HARRIET COORSSEN

(JURAT OMITTED IN PRINTING)

Omissions from Appendix

The following items are omitted from this Appendix because they are printed in the jurisdictional statement as follows:

Opinion of the Court of Appeals for the Second Circuit on the merits ..... J.S. 1a

Order and Opinion of the Court of Appeals denying rehearing en banc ..... J.S. 40a

Opinion of the District Court for the Eastern District of New York ..... J.S. 51a

Judgment Appealed from ..... J.S. 81a

Judgment of the District Court ..... J.S. 83a

Notice of Appeal to the Supreme Court of the United States ..... J.S. 86a